

THE STATE OF NEW HAMPSHIRE
Merrimack County Superior Court
163 N. Main Street
P. O. Box 2880
Concord, NH 03301 2880
603 225-5501

NOTICE OF DECISION

MAUREEN D SMITH ESQ
OFFICE OF ATTORNEY GENERAL
33 CAPITOL ST
CONCORD NH 03301

07-E-0495 State of NH v. North Country Environmental Services, Inc.

Enclosed please find a copy of the Court's Order dated 11/24/2007
relative to:

Consent Decree

11/26/2007

William McGraw
Clerk of Court

cc: Bryan K. Gould, Esq.

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

STATE OF NEW HAMPSHIRE

v.

NORTH COUNTRY ENVIRONMENTAL SERVICES, INC.

Docket No. _____

CONSENT DECREE

A. INTRODUCTION

1. Petitioner, the New Hampshire Department of Environmental Services, (hereinafter "Department") by and through its counsel, the Attorney General (together with the Department, the "State"), and the Defendant, North Country Environmental Services, Inc. (hereinafter "NCES"), through its counsel, Brown, Olson & Gould, P.C., hereby agree to the terms and conditions set forth in this Consent Decree (hereinafter "Decree"), as ordered by the Superior Court of Merrimack County, in settlement of the alleged solid waste violations asserted by the State in the Petition for Permanent Injunction and Civil Penalties ("Petition") filed with the Court simultaneously with this Consent Decree. The Petition is attached as Exhibit A hereto.

2. This Consent Decree resolves the violations alleged in the State's Petition through the date of entry of the Decree; in particular, alleged violations of New Hampshire's Solid Waste Management Act, RSA 149-M, and rules and permits issued thereunder. The Petition seeks injunctive relief in the form of NCES's compliance with applicable laws, rules and permits, as well as affirmative action to identify and cure deficiencies in operating procedures. The Petition also seeks imposition of civil penalties to the maximum extent authorized by RSA 149-M.

3. The State alleges in the Petition that NCES violated RSA 149-M, administrative rules duly adopted by the Department under RSA 149-M, and permits and approvals issued by the Department. In particular, the State alleges that NCES failed to comply with rules, permits and approved plans and to implement adequate solid waste inspection procedures designed to exclude prohibited wastes from the NCES landfill located in Bethlehem, New Hampshire. See Exhibit A. The State seeks both injunctive relief and civil penalties for the alleged violations.

4. NCES acknowledges that it is required to comply with all applicable State solid waste management laws, rules, permits and approvals in conducting solid waste disposal operations at the NCES landfill.

5. This Decree represents the compromise of a disputed claim, and NCES does not admit, and nothing in this Decree is deemed an admission of, any allegation contained in the Petition. The State and NCES, wishing to avoid the expense of protracted litigation, agree without adjudication of the facts or law, that settlement of this matter in the manner set forth herein is in the public interest and that entry of this Decree is an appropriate resolution of this matter. The parties consent to entry of this Decree.

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED as follows:

B. JURISDICTION AND VENUE

6. This Court has jurisdiction over the parties and this action pursuant to 149-M:38, II and V (2005). Venue is proper in Merrimack County as this is a transitory action.

7. For purposes of this Decree and the underlying Petition, including any further action to enforce the terms of this Decree, Defendant waives any and all objections to the Court's subject matter or personal jurisdiction.

C. PENALTY AND SUPPLEMENTAL ENVIRONMENTAL PROJECTS

8. In addition to the injunctive relief set forth in section D of this Decree and payment of attorneys' fees under paragraph 9 herein, NCES shall:

- a. Within thirty (30) days of the effective date of this Decree, make a cash payment of fifty thousand dollars (\$50,000) to the State in the form of a certified check drawn in the name of "Treasurer – State of New Hampshire." This payment shall be delivered by hand to the Office of the Attorney General, 33 Capitol Street, Concord, NH 03301, Attention: Maureen D. Smith, Senior Assistant Attorney General;
- b. Within thirty (30) days of the effective date of this Decree, make a cash payment of fifty thousand dollars (\$50,000) to the Hubbard Brook Research Foundation ("Foundation"). The payment shall be made by certified check made out to the "Hubbard Brook Research Foundation" and forwarded to the attention of David Sleeper, Executive Director, 16 Buck Road, Hanover, NH 03755. The payment shall be accompanied by written notice that the payment is being made as a result of a state enforcement action regarding the NCES landfill and a copy of such notice shall be provided to the Attorney General's Office, Attn: Maureen D. Smith. The Department has determined that the Foundation's initiatives on environmental education in New Hampshire's public schools and on environmentally sensitive methods of economic development of the state's northern forests will provide an environmental benefit to the citizens of northern Grafton County and southern Coos County; and

c. Perform or contract at its own expense for the performance of the closure of the solid waste landfill (the "Troy Mills Landfill") located adjacent to the Troy Mills Superfund Site in Troy, New Hampshire (the "Closure Project"). The State agrees that NCES's responsibilities with regard to the Closure Project at the Troy Mills Landfill, which it neither owns nor operates, is limited to the scope of work as set forth in Exhibit B hereto. NCES agrees to coordinate with the Department and the Attorney General in obtaining any necessary permits and approvals for the Closure Project. NCES also agrees to coordinate with the Department in planning and performance of the Closure Project. The State agrees, prior to performance of the Closure Project, to negotiate and execute, in a form reasonably acceptable to NCES, a covenant not to sue NCES and/or any of its parents, subsidiaries, affiliates, officers, directors, employees, agents, contractors, subcontractors, representatives, successors, and/or assigns with respect to existing conditions or contamination associated with the site of the Closure Project.

9. NCES shall reimburse the State for attorneys' fees in this matter by way of a certified check in the amount of sixteen thousand five hundred sixty one dollars and fifty cents (\$16,561.50) drawn in the name of "Treasurer, State of New Hampshire" and delivered by hand to the Office of the Attorney General, 33 Capitol Street, Concord, NH 03301, Attention: Maureen D. Smith, Senior Assistant Attorney General. The cash payment shall be received within thirty (30) days of the effective date of this Decree. This amount shall be used by the Attorney General's Office for public protection purposes, as determined at the discretion of the Attorney General.

10. NCES shall pay interest on any late payment, which interest shall accrue at a rate of 10% per annum (RSA 336:1). NCES shall not take any federal or state tax deductions for payments under paragraphs 8b and 8c herein.

D. INJUNCTIVE RELIEF

11. Compliance Related Project: Within thirty (30) days of the effective date of this Decree, NCES shall contract with a professional engineering firm licensed in the State of New Hampshire (hereinafter "consultant") to perform and prepare, at NCES's expense, an evaluation and preparation of written recommendations in the form of a "Waste Control Evaluation Report," which shall assess and make recommendations on the following:

- a. Adequacy of NCES's waste assessment/inspection and acceptance/rejection procedures.
- b. Modifications to NCES's operational plan and permit to optimize identification and rejection (non-acceptance) of prohibited wastes.
- c. Procedures that NCES should adopt to verify that recommendations are being implemented.

12. Consultant's Report. A report shall be produced within thirty (30) days of NCES's contracting with the consultant, which report shall contain, at a minimum, the following:

- a. Assessment of waste acceptance procedures, customer compliance with restrictions on acceptable waste, and NCES personnel attention to waste characterization.
- b. Recommendations for procedures to improve inspection, identification and rejection of prohibited waste; and

- c. Recordkeeping and other methods for improving exclusion of prohibited wastes.

13. Submission and Revision of Report. The consultant's report, in both electronic and paper version, shall be simultaneously forwarded to NCES and to the Department. The report may be posted on the Department's website to allow members of the public an opportunity to review the report and to provide written comment. Within a reasonable time of its receipt of the consultant's report, the Department may request, in its discretion, revisions to the report's conclusions and recommendations. The parties agree to discuss, promptly and in good faith, any issues raised by NCES or the consultant with respect to any of the Department's revisions and to cooperate to address and resolve such issues. The report will be modified to reflect the Department's revisions (with any changes resulting from any discussions among the Department, NCES, and the consultant), and the consultant shall then prepare a final "Waste Control Evaluation Report" which shall be submitted in both electronic and paper version to the Department within thirty (30) days of receipt of the Department's final revisions.

14. NCES's Obligations Following Issuance of Final Report. Within thirty (30) days of issuance of the final "Waste Control Evaluation Report," NCES shall incorporate its recommendations into its operational procedures and shall seek to amend its operating plan to conform to the recommendations. NCES shall also seek to amend the Terms and Conditions of Standard Permit No. DES-SW-SP-03-002 to require annual reports to the State on its implementation of and adherence to the recommendations of the "Waste Control Evaluation Report." All such recommendations shall be incorporated into future applications for standard permits and operating approvals.

15. Stipulated Penalties. NCES shall pay a stipulated penalty of one hundred dollars (\$100) per day for late submissions under this Decree.

E. EFFECT OF AGREEMENT

16. This Decree and all obligations assumed hereunder shall apply to and be binding upon North Country Environmental Services, Inc., and its successors and assigns.

17. The Department and the Attorney General release and covenant not to sue or to take any administrative action against NCES or its successors and assigns for, and only with respect to, the violations alleged in the Petition and violations of environmental statutes, rules, or permits or NCES's operating plan at the Landfill that could have been asserted through the effective date of this Decree on the basis of the specific material facts alleged in the Petition, including, without limitation, NCES's alleged acceptance of asbestos-containing material from the renovation of the Mountain View Grand Hotel in Whitefield, New Hampshire. This covenant not to sue shall take effect upon full and timely payment of all amounts payable under Section C of this Decree. The State expressly reserves any and all legal and equitable remedies, sanctions and penalties that might be available to enforce the provisions of this Decree for failure to comply with the requirements herein.

18. If the cash payments required under this Decree are not paid in accordance with the schedule set forth herein, then with respect to such payments, this Decree shall be considered an enforceable judgment for purposes of post judgment collection statutes, court rules and other applicable authorities.

19. It is the intention of the parties that this Decree be entered and enforced as an Order of the Court pursuant to all the power of the Court at law and equity, including, without

limitation, the contempt power. NCES hereby waives any objection to the jurisdiction of the Merrimack Superior Court if the State seeks to enforce this Decree.

F. MISCELLANEOUS PROVISIONS

20. The State's failure to enforce any provision of this Decree after any breach or default shall not be deemed a waiver of its right to enforce each and all of the provisions of this Decree upon any further breach or default.

21. NCES shall not assert or refile any third party claims for damages, indemnity or other civil remedies pertaining to the violations alleged in the Petition or to NCES's obligations under this Decree, including without limitation claims asserted in the Coos County Superior Court matter entitled *North Country Environmental Services, Inc. v. Kevin M. Craffey, et al.*, Case No. #07-C-05, which has been voluntarily dismissed and closed.

22. This Decree contains the entire agreement of the parties, and supersedes all prior written agreements and all prior and contemporaneous oral or written agreements between the parties with respect to the subject matter hereof. Any material modifications hereof must be agreed to in writing between NCES and the State, through the Attorney General's Office, and filed with the Court. Such modifications become effective when approved by the Court. The parties may agree in writing without Court approval on non-material modifications, such as modifications to schedules established by this Decree, with no effect on statutory, regulatory or permitted obligations. Such non-material modifications become effective upon execution by both parties.

23. The effective date of this Decree shall be the date upon which it is entered as an Order of the Court.

24. This Decree shall be construed in accordance with the laws of the State of New Hampshire.

25. Upon approval and entry of this Decree, the Decree shall constitute a final judgment under state and federal law, and in any proceeding under Title 11 of the United States Code, any cash penalties set forth herein shall constitute an allowed claim with the priority specified in 11 U.S.C. §726(a)(2).

26. The docket in this case may be marked as closed after ninety (90) days of the Court's approval of this Decree. The Court shall retain jurisdiction of this matter for purposes of enforcement of the Decree and shall reopen the case upon motion by either party for enforcement of its terms.

CONSENTED TO:

THE STATE OF NEW HAMPSHIRE

By its attorneys,

KELLY A. AYOTTE
ATTORNEY GENERAL

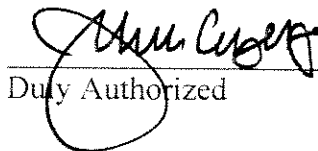
By:



Maureen D. Smith
Senior Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, New Hampshire 03301
Tel: (603) 271-3679

NORTH COUNTRY ENVIRONMENTAL
SERVICES, INC.

By:


Duly Authorized

BY ITS COUNSEL
BROWN, OLSON & GOULD, P.C.

By: Bryan K. Gould
Bryan K. Gould, Esq.
2 Delta Drive, Suite 301
Concord, NH 03301
Tel: (603) 225-9716

The Court finds that this Consent Decree is a reasonable and fair settlement of the State's alleged violations under RSA 149-M and adequately protects the public interest. Dated and entered this 24th day of Nov - , 2007.

SO ORDERED

Dated: Nov. 24, 2007

CA Conboy
Presiding Justice

Exhibit A

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

State of New Hampshire Department of Environmental Services

v.

North Country Environmental Services, Inc.

Docket No. _____

**PETITION FOR PRELIMINARY AND PERMANENT INJUNCTION AND
CIVIL PENALTIES**

NOW COMES the State of New Hampshire Department of Environmental Services, by and through counsel, the Attorney General's Office ("State"), and petitions this Court for preliminary and permanent injunctive relief and assessment of civil penalties against North Country Environmental Services, Inc. ("NCES"), as follows:

A. INTRODUCTION

1. This is an action against NCES for violation of the State's Solid Waste Management Act, RSA 149-M, and implementing rules, relating to permits and procedures for preventing improper disposal of prohibited waste at the NCES landfill located in Bethlehem, New Hampshire (hereinafter "the landfill"). The State petitions this Court for injunctive relief and civil penalties under the authority of RSA 149-M:15, IV and VI (2005).

B. PARTIES

2. The petitioner, New Hampshire Department of Environmental Services (“Department”), with principal offices at 29 Hazen Drive, Concord, New Hampshire 03301, is the State agency responsible for the administration and enforcement of state statutes and rules relating to disposal and management of solid waste under the Solid Waste Management Act, RSA 149-M, and rules adopted under its authority at *NH Code Admin. Rules Chapter Env-Sw 100 et seq. (formerly Env-Wm 100 et seq.)* (hereinafter “Env-Sw”).

3. Respondent NCES is a Virginia corporation registered with the New Hampshire Secretary of State to do business in New Hampshire, with a principal office address of P.O. Box 866, Rutland, VT 05702.

C. JURISDICTION AND VENUE

4. This Court has jurisdiction over the parties and this action pursuant to 149-M:38, II and V (2005). Venue is proper in Merrimack County as this is a transitory action.

D. FACTUAL ALLEGATIONS

5. NCES owns and operates a private, commercial landfill located on Trudeau Road in Bethlehem, New Hampshire.

6. RSA 149-M gives the Department authority to regulate management and disposal of solid waste through the administration of rules and a permit system.

7. Under RSA 149-M:7, the Commissioner of the Department is responsible for promulgating rules and criteria for solid waste disposal facilities. Under 149-M:9, every solid waste disposal facility requires a permit before it can be constructed, operated, or closed. Facilities must operate within the scope of the permit issued by the Department.

8. During the time period relevant to this action, NCES held a solid waste permit for the landfill (No. DES-SW-SP-03-002) and was subject to the rules promulgated by the Department.

9. Under Env-Sw 1005(d), NCES, which is a Level IV facility under the rules (*see* Env-Sw 1602.08) must operate and maintain the facility in accordance with all requirements under the solid waste rules and the facility permit.

10. Furthermore, Env-Sw 1005.06(a) requires NCES to operate and maintain the facility in a manner that is protective of the environment, public health and safety.

11. The facility permit requires NCES to establish an “Operational Plan” specifying procedures for customer education, training landfill operations staff, and inspections of incoming waste loads. This plan is intended to guide facility employees on compliance with the permit and to prevent prohibited wastes from being disposed of at the facility.

12. NCES’ permit prohibits acceptance of asbestos waste.

13. Env-Sw 102.14 defines “asbestos waste” as any solid waste that contains more than one percent asbestos by weight.

14. NCES' permit has been modified to allow for processing "C&D" waste, which includes materials generated from building a structure (construction) and those created during the wrecking of a building (demolition debris).

15. On or about 1999-2002, the Mountain View Grand Resort Hotel, which was built in 1872 and expanded many times since, including around the years 1922, 1928, and 1965, was renovated by the owner.

16. The renovation of the hotel included the removal of large amounts of asbestos material.

17. On information and belief, unknown amounts of asbestos were placed in solid waste dumpsters and containers stored on the Mountain View property. On information and belief, the hotel also placed much of its C&D waste in bags so that haulers were unable to see exactly what was being dumped.

18. On or about May 21, 2004, Kevin Craffey, owner of the Mountain View Grand Hotel, pled guilty to State criminal charges that he had illegally removed asbestos from the Mountain View Hotel, buried some of the asbestos on-site, and disposed of the remainder through solid waste transporters.

19. On information and belief, the hotel employed waste transporters that transported its waste to the Bethlehem landfill for a period of approximately two years.

20. On information and belief, on or about 2000 – 2002, one to two truckloads per week of debris and other solid waste from the Mountain View property were transported directly to the landfill for disposal.

21. At all relevant times, NCES knew of the Mountain View renovation project and knew that waste from the project was being transported to the landfill. NCES accepted and disposed of all waste material brought to the landfill from the hotel, with the exception of some tires and metal waste.

22. At no time did NCES detect, sample, or satisfactorily examine the content of waste loads. On information and belief, asbestos was deposited and buried at the Bethlehem landfill.

23. During the relevant time period, NCES did not take adequate steps to determine the content of waste that came from the Mountain View Hotel. NCES did not initiate steps once it learned of the criminal action against Kevin Craffey, and others regarding illegal asbestos related activities.

24. NCES' approved operational plan within the facility permit requires that the facility inspect 5% of the incoming waste loads every day.

25. According to the landfill employees, "at least four waste loads every day," are randomly inspected regardless of how many loads enter the landfill.

26. NCES' approved plans within the facility permit require the landfill compactor operator to "observe the waste as the vehicles discharge their load onto the working face" and "as refuse is spread at the working face ... look for unacceptable materials."

27. According to the landfill employees, the compactor operator at the Bethlehem landfill visually checks whether the waste is composed of acceptable materials.

28. According to the landfill employees, normal waste discharges and observations took about five to ten minutes, while random inspections took a few minutes longer.

29. According to the landfill employees, much of the waste transported to the NCES facility is bagged, and therefore the compactor operator is unable to see what type of waste is being disposed of in the landfill.

30. According to the landfill employees, the compactor operator was not instructed to read and had not read the Operational Plan.

31. On information and belief, the facility manager did not regularly observe, monitor, or otherwise manage random inspections that took place at the landfill.

32. According to the landfill employees, a C&D recycling facility that occasionally processed waste from the Bethlehem facility notified NCES in 2001 that it found non-friable asbestos in a load of C&D.

33. According to NCES employees, that company offered to conduct a training session for NCES employees on recognizing asbestos waste, which took place in 2001.

34. On information and belief, the recycling facility training was the only training the staff at NCES received on recognizing asbestos waste.

35. According to NCES' facility manager, he did not know how to recognize most forms of asbestos waste during the relevant time period.

36. On information and belief, NCES' management took no further steps to address the landfill's procedures for ensuring that the landfill did not mistakenly

accept prohibited wastes, even after learning that Mountain View Hotel asbestos waste may have been disposed of at the landfill.

37. On information and belief, at no point during the relevant time period did NCES or its employees detect or otherwise discover the presence of asbestos in waste being deposited and buried at the landfill.

38. During all relevant time periods, NCES and its employees did not take adequate steps to determine whether asbestos had, or was, continuing to enter the landfill from the hotel.

39. Env-Sw 1005.01(e) requires that NCES employees regularly inspect, monitor, and maintain the facility to assure compliance with the solid waste rules.

40. NCES did not regularly inspect, monitor, and maintain the facility to ensure that asbestos was not being deposited at the facility.

41. Env-Sw 1005.01(f) requires that NCES employees repair, correct, abate, and remediate facility operating problems in a timely manner so that they continue to comply with their permit.

42. Permit No. DES-SW-SP-00-003 further requires that NCES participate in “customer education; training landfill operations staff; posting signs at the facility; and inspections of incoming waste loads.” NCES failed properly train its staff in identifying asbestos.

COUNT I
**VIOLATION OF THE SOLID WASTE
MANAGEMENT RULES AND OF THE PERMIT**

43. The State incorporates by reference the allegations set forth in paragraphs 1 through 42.

44. Under the Solid Waste Rules and Permit No.: DES-SW-SP-03-002, NCES is not permitted to accept asbestos waste for disposal and must take steps to ensure that asbestos is not accepted for disposal.

45. NCES failed to comply with the Solid Waste Rules and the facility permit.

46. Under RSA 149-M:15, IV, NCES is subject to civil penalties of up to \$25,000 for each violation and for each day of a continuing violation.

COUNT II
FAILURE TO COMPLY WITH THE OPERATING PLAN

47. The State incorporates by reference the allegations set forth in paragraphs 1 through 46.

48. Env-Sw 1005.11(a) requires that a "facility operating plan shall provide sufficient detail to allow the certified operator and other trained facility personnel to operate the facility in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance."

49. NCES failed to provide sufficient guidance to allow facility personnel to operate the landfill in compliance with the permit.

50. NCES failed to ensure that its employees read the Operating Plan and were aware of its requirements.

51. NCES failed to ensure that its employees were complying with the terms of the operating plan.

52. Under RSA 149-M:15, IV, NCES is subject to civil penalties of up to \$25,000 for each violation and for each day of a continuing violation.

COUNT III
**FAILURE TO INSPECT WASTE AND REJECT ASBESTOS
IN COMPLIANCE WITH THE PERMIT**

53. The State incorporates by reference the allegations set forth in paragraphs 1 through 52.

54. Env-Sw 1105.09(a)-(c) states: (a) Only authorized wastes, as specified in the permit, shall be accepted by a facility; (b) Incoming wastes shall be inspected and, if necessary, sampled and analyzed to assure the facility accepts authorized waste only; and (c) Unauthorized waste shall be rejected by the facility.

55. The inspections carried out by NCES were insufficient to assure that the facility only accepted authorized waste as required by the rules and the permit.

56. Under RSA 149-M:15, IV, NCES is subject to civil penalties of up to \$25,000 for each violation and for each day of a continuing violation.

COUNT IV
FAILURE TO REMEDIATE FACILITY OPERATING
PROBLEMS IN A TIMELY MANNER

57. The State incorporates by reference the allegations set forth in paragraphs 1 through 56.

58. Env-Sw 1005.01 (f) requires that “[t]he permittee shall execute facility repairs and correct, abate and remediate facility operating problems in a timely manner and as directed by the department in conformance with the solid waste rules.”

59. NCES did not “correct, abate and remediate facility operating problems in a timely manner” to conform to the solid waste rules’ requirement that the landfill not accept prohibited wastes.

60. Under RSA 149-M:15, IV, NCES is subject to civil penalties of up to \$25,000 for each violation and for each day of a continuing violation.

COUNT V
FAILURE TO OPERATE AND MAINTAIN THE FACILITY IN A MANNER
PROTECTIVE OF THE ENVIRONMENT, PUBLIC HEALTH, AND SAFETY

61. The State incorporates by reference the allegations set forth in paragraphs 1 through 60.

62. Env-Sw 1005.06(a) requires NCES to operate and maintain the facility in a manner that is protective of the environment, public health and safety.

63. NCES’ failure to properly carry out the terms of its permit does not constitute compliance with this provision.

64. Under RSA 149-M:15, IV, NCES is subject to civil penalties of up to \$25,000 for each violation and for each day of a continuing violation.

E. REQUEST FOR RELIEF

NOW THEREFORE, the State respectfully requests that this honorable Court grant the following relief:

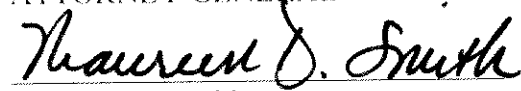
- A. Injunctive relief in the form of NCES complying with New Hampshire's Solid Waste Management Act, RSA 149-M; Solid Waste Management Rules; and permits used by the Department.
- B. Injunctive relief requiring NCES to identify and cure deficiencies in NCES' Facility Permit, Operational Plan, employee training, and its facility management.
- C. The maximum amount of civil penalties allowed by RSA 149-M.
- D. Such other relief deemed just and appropriate.

Respectfully submitted,

STATE OF NEW HAMPSHIRE
DEPARTMENT OF
ENVIRONMENTAL SERVICES

By its attorneys,

KELLY A. AYOTTE
ATTORNEY GENERAL


Maureen D. Smith
Senior Assistant Attorney General
Lindi von Mutius (Rule 36)
Environmental Protection Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3679

Date: 11/19/07

EXHIBIT B

Scope of Work for Troy Mills Solid Waste Landfill Closure Project

NCES or its designated affiliate (either of which, the "Contractor") will perform the closure of the Troy Mills Solid Waste Landfill in accordance with this Scope of Work. The work will be performed within the approximately three-acre landfill area, hereinafter referred to as "Cover Area."

Contractor will initially install silt fence to define the project boundaries and control run-off. Contractor shall minimize to the extent possible the amount of disturbed areas and shall avoid disturbance of areas previously remediated. Contractor will grade the Cover Area to obtain a minimum 2% grade. Contractor will consult with and obtain the approval of the N.H. Department of Environmental Services with respect to the materials it will use to create the final closure grades. Contractor will deliver Short Paper Fiber (SPF) to the site to be used for a minimum one-foot thick vegetative and cover layer. The SPF will be worked with onsite soils to ensure proper placement. Above the cover layer will be a minimum six-inch SPF/Onsite Soil/Soil Amended vegetative growth layer. The sole purpose of this layer will be to establish appropriate vegetation to protect the area from erosion. Contractor will grade and apply a minimum six-inch vegetative layer as described above to the sloped area to the northeast of the Cover Area where existing exposed wastes exist. (The approximate size of this area is 3,000 square feet.) Before exiting, Contractor will seed and mulch all areas disturbed by Contractor as part of this project. Contractor will prepare and supply as-builts with the following: photographic log of construction activities, documentation of materials placed, survey of materials placed, and final survey of site grading plan. Documentation will include weekly construction meeting minutes.